

REMARKS

This application has been amended in response to the Office Action mailed May 18, 2005, in which the Examiner rejected claims 1-16 and 19-27 and objected to the form of claims 17 and 18.

A Supplemental Information Disclosure Statement is provided with this Amendment, and the Examiner is requested to consider the material disclosed in connection with reexamining this application.

Claim 17 has been amended into independent form, and the claim should now be allowable. Claim 18 depends from claim 17 and should therefore be allowable for the same reason.

In the Office Action, the Examiner rejected claims 1, 2, 3, 9, and 15-19 as being indefinite. Claims 2, 3, 16, and 19 have been amended to change reference to "said first handle" to read--said second handle--to agree, respectively with claim 1 and claim 15, which recite, respectively, that the first handle is connected to the base of the jaw and the second handle is connected to the tang of the blade assembly, as understood by the Examiner. Claim 9 has been amended by changing "said cutter portion" to read--said sharpened cutter--, to agree with claim 1, from which claim 9 depends.

Claims 1-4, 15, and 16 were rejected as anticipated by Berg, et al., US Patent No. 5,745,997. Referring to the scissors blades disclosed by Berg, et al., as a blade assembly and a jaw, as the Examiner does, Berg, et al. fails to disclose a blade assembly including a blade carrier having a tang and a sharpened cutter mounted removably on such a blade carrier. Berg, et al., teach a miniature folding scissors. Each blade of the Berg, et al. tool is a unitary member including a tang or base portion and a sharpened blade that is not removable from any other portion of the blade. Accordingly, the rejection of claim 1 as anticipated by Berg, et al. is inappropriate and should be withdrawn, and claim 1 should be found allowable. Use of a removable blade portion on a blade carrier in a tool such as that disclosed by Berg, et al. would

add undesirably to the size of the Berg tool, and thus would be contrary to the intent of Berg, et al. to teach the construction of a miniature folding scissors tool.

Claims 2-11 all depend from claim 1 and, as amended, should be found allowable for the same reasons.

Additionally, claim 3 should be found allowable for the reason that Berg, et al. fails to show a base interconnecting the side walls of the channel and defining an abutment face. The base of each scissors blade of the Berg, et al. device is engaged by the tip of a respective spring mounted within the handle, and not by a part of the base of the channel portion of the handle. Thus, even when referring to Berg's handle extension stop 132 as a leg, Berg, et al. fails to anticipate claim 3.

Claims 5, 6, 7, and 20-21 were rejected under 35 U.S.C. §103(a), as unpatentable over Berg, in view of Montague, et al., U.S. Patent No. 6,625,832 and Seber, U.S. Patent No. 5,528,834. The Examiner cites Montague as teaching cushioning portions on the outer surfaces of the handles. However, while Montague mentions textured surface areas 104 to provide extra gripping ability as well as a more comfortable fit in the user's hand, those areas 104 are merely stamped areas of the metal surface that have a rough shape, and are not made of a separate cushioning type of material. Accordingly, Montague does not teach providing cushioning portions on the outer surfaces of the handles.

While the Pocket Gardener, disclosed as item FN in the Supplemental Information Disclosure Statement that accompanies this Amendment, has handles in the form of channels of metal around which a hard plastic cover and an over-molded rubber cushioning element are fastened by the pivot pins that hold together the pocket gardener tool, the hard plastic material does not overlie and "extend [ing] along a margin thereof so as to cover said margin and present said elastomeric material along said margin for comfortable contact with a user's hand" as recited in claim 5, which should therefore be allowable, together with claims 6 and 7, which depend from claim 5.

Claim 20 has been amended along lines similar to the amendment of claim 5, and claim 20 therefore distinguishes the present invention over the prior art for the same reasons set forth with respect to claim 5. In particular, claim 20 now recites "each of said side walls of one of said handles includes cushioning portions of elastomeric material extending along and covering at least part of a respective margin of each of said side walls and facing outwardly when said handles are extended, so as to provide cushioning for gripping said handle." Since there is no elastomeric material extending along and covering the margin of each side wall, that is, the narrow surface generally perpendicular to the major plane of the side wall, claim 20 should be allowed. Claim 21 depends from claim 20 and should be allowed for the same reason.

Claim 8 was rejected under 35 U.S.C. §103(a) as unpatentable over Berg in view of Thompson. Since claim 8 depends from claim 1, which should be allowed, claim 8 should also be allowed.

Similarly, claim 9 was rejected as unpatentable over Berg in view of Seber, but since claim 9 depends from claim 1, claim 9 should also be allowable.

Claims 10 and 22 were rejected as unpatentable over Berg in view of Mizutani. Since claim 10 depends from claim 1, which should be allowed, claim 10 should also be allowed. Claim 22 is an independent claim, and should be allowed, since the combination asserted by the Examiner is not suggested by the combined references themselves, but only as a result of hindsight in view of the invention defined by claim 22. Berg discloses a miniature scissors in which a beam spring held in the handle operates a rocker to open apart the scissors' blades, in order to permit an effective spring arrangement to be included with the otherwise small scissors. Enlargement of the scissors' blades sufficiently to permit inclusion of a spring in a cavity at the hub of the scissors' pivot joint of the Berg scissors would defeat the objective of providing a small folding scissors, and so inclusion of a spring arrangement such as that shown in Mizutani, et al., in the Berg tool would not be obvious in view of the Berg tool and the Mizutani reference, and such a combination is only suggested by the present invention itself.

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Claims 11-14 were rejected as unpatentable over Berg in view of Rausse. Since claim 11 depends from claim 1, which should be allowed, claim 11 should also be allowed. Claims 12-14 have been canceled, without prejudice.

Claim 10 depends from claim 1 and should be allowable for the same reasons set forth with respect to claim 1.

While the Examiner set forth no reasons for rejection of claims 23-27, in view of the prior art disclosed in the accompanying Supplemental Information Disclosure Statement, claim 23 has also been amended along the lines of the amendments made in claims 5 and 20 and now recites "a cushioning portion attached to said shell layer and extending along and covering at least a portion of said elongate margin of said one of said side walls." As amended, then, claim 23 patentably distinguishes the handle disclosed in the present application from the prior art and should be allowed, together with claims 24-27, which depend from claim 23.

In light of the foregoing remarks and amendments, the Examiner is requested to reexamine the application, to allow claims 1-11 and 15-27, all of the claims remaining in the application, and to pass the application on promptly to issue.

Respectfully submitted,



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